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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,192

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Gilles Jacquet

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CLARK & BRODY

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WASHINGTON, DC 20005

EXAMINER

FERGUSON, MICHAEL P

ART UNIT

PAPER NUMBER

3679

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/565,192	<b>Applicant(s)</b> JACQUET, GILLES	
	<b>Examiner</b> MICHAEL P. FERGUSON	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☐ Claim(s) 1,2,4-6 and 8-13 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,8 and 10-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 5, 2009 has been entered.

### ***Election/Restrictions***

2. Applicant's election without traverse of Species 1, Figure 3, claims 1-3, 5-8 and 10-13, in the reply filed on August 27, 2008 is acknowledged.

3. Claims 4 and 9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on August 27, 2008.

### ***Claim Objections***

4. Claims 1 and 6 are objected to because of the following informalities:

Claim 1 (lines 1-2) recites "tarpaulin or similar". It should recite --tarpaulin--.

Claim 1 (line 2) recites "where the molding includes". It should recite --the molding including--.

Claim 6 (line 2) recites " "V"-shaped". It should recite -- V-shaped--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 5, 6, 8 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Teestruct Manufacturing (WO 98/32324) in view of Niemanns (US 3,807,978).

As to claims 1 and 8, Teestruct Manufacturing discloses a molding **56** for the securing of a fabric **54** or tarpaulin in a groove of a supporting structure **24**, the molding including a core **52** from which extend at least two elastically deformable wings **60,62**, substantially parallel to each other and separate from each other, as well as elastically deformable reinforcing resources **64** positioned between the wings,

characterized in that the reinforcing resources include at least one bowed spacer **64** extending between the two wings and connecting the ends of the wings located away from the core (Figures 8,8A,11,12,15).

Teestruct Manufacturing fails to disclose a molding wherein the reinforcing resources include end-stop resources intended to limit the movements of the spacer, and designed to oppose bending of the spacer after a certain point of approach of the wings, wherein the end stop resources comprise at least one rib having a free end to limit movement of the spacer, and to oppose bending of the spacer after a certain point

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of approach of the wings; wherein the at least one rib is attached to the spacer extending in the direction of the core.

Niemanns teaches a molding wherein reinforcing resources include end-stop resources **7** intended to limit the movements of a spacer **3**, and designed to oppose bending of the spacer after a certain point of approach of a wing **8**, wherein the end stop resources comprise at least one rib **7** having a free end to limit movement of the spacer, and to oppose bending of the spacer after a certain point of approach of the wing; wherein the at least one rib is attached to the spacer extending in the direction of a core of the molding; rib **7** limits the compression of spacer **3** toward wing **8**, preventing the spacer from lying against the wing and a reduction in the clamping force exerted by the molding due to excess compression (column 2 lines 57-68). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the molding disclosed by Teestruct Manufacturing to comprise a rib as taught by Niemanns in order to limit the compression of the spacer toward the wings, preventing the spacer from lying against the wings and a reduction in the clamping force exerted by the molding due to excess compression.

As to claim 2, Teestruct Manufacturing discloses a molding characterized in that the core **58**, the wings **60,62** and the bowed spacer **64** form a single-block assembly (Figure 12).

As to claims 5 and 6, Teestruct Manufacturing fails to disclose a molding wherein a concave side of the spacer is oriented away from the core, and wherein the spacer is V-shaped. Teestruct Manufacturing does not disclose any structural or functional

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significance as to the specific shape of the spacer, other than that spacer **64** exerts a spreading force between wings **60,62** (page 9 lines 18-22).

The applicant is reminded that a change in the shape of a prior art device, wherein there is no structural or functional significance disclosed as to the specific shape of an element, is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the molding disclosed by Teestruct Manufacturing wherein the spacer comprises a concave side oriented away from the core, and wherein the spacer is V-shaped, as Teestruct Manufacturing does not disclose any structural or functional significance as to the specific shape of the spacer, other than that the spacer exerts a spreading force between the wings, and as such change in shape is a design consideration within the skill of the art which would yield expected and predictable results.

As to claim 10, Teestruct Manufacturing discloses a molding characterized in that each wing **60,62** has a convex securing shape, in the vicinity of its end away from the core **58** and on its outer face (Figure 12).

As to claim 11, Teestruct Manufacturing discloses a molding characterized in that the base of each wing **60,62** is located at a distance from a nearest edge of the core **58** of the molding (Figure 12).

As to claim 12, Teestruct Manufacturing discloses a molding characterized in that the core **58** is substantially flat (Figure 12).

As to claim 13, Teestruct Manufacturing discloses a decorative or advertising panel that includes:

a support structure **24** which has at least one peripheral groove,  
a rod **56** inserted into in the groove in order to clamp within it a stretched fabric **54** or tarpaulin,  
characterized in that the rod is composed of a molding **56** (Figure 15).

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1, 2, 5, 6, 8 and 10-13 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL P. FERGUSON whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (6:30am-3:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MPF  
08/20/09

/Michael P. Ferguson/  
Primary Examiner, Art Unit 3679